

# PCT COOPERATION TREATY

## PCT

### INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

|  |   |  |
|--|---|--|
| Applicant's or agent's file reference<br><b>DIAKR.007VPC</b> | <b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below. |  |
| International application No.<br><b>PCT/US 03/28527</b>      | International filing date (day/month/year)<br><b>11/09/2003</b>   | (Earliest) Priority Date (day/month/year)<br><b>12/09/2002</b> |
| Applicant<br><br><b>DIAKRON PHARMACEUTICALS, INC.</b>        |   |  |

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 7 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the report**

a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☒ Certain claims were found unsearchable (See Box I).

3. ☒ Unity of invention is lacking (see Box II).

4. With regard to the title,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

☒ None of the figures.

# INTERNATIONAL SEARCH REPORT

International application No.  
PCT/US 03/28527

## Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:  
because they relate to subject matter not required to be searched by this Authority, namely:
  
2. ☒ Claims Nos.: 9-11  
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:  
see FURTHER INFORMATION sheet PCT/ISA/210
  
3. ☐ Claims Nos.:  
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

## Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

see additional sheet

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
  
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
  
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
  
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:  
1-4 (all partially) 5,7-8 (all partially)

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

## FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box I.2

Claims Nos.: 9-11

Present claims 9-11 relate to an extremely large number of possible methods. In fact, the claims contain so many options, that a lack of clarity within the meaning of Article 6 PCT arises to such an extent as to render a meaningful search of the claims impossible.

Present claims 1-2,4,7 relate to an extremely large number of possible compounds and methods. Support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT is to be found, however, for only a very small proportion of the compounds/methods claimed. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Consequently, the search has been carried out for those parts of the claims which appear to be supported and disclosed, namely those parts relating to the compounds/methods disclosed in the examples and closely related homologous compounds/methods

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1-4(all partially),5,7-8(all partially)

Method of inhibiting calcium T-channel activity or treating hypertension by administering a compound of formula (I)

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2. claims: 1-4(all partially),6,7-8(all partially)

Method of inhibiting calcium T-channel activity or treating hypertension by administering a compound of formula (II)

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## INTERNATIONAL SEARCH REPORT

International Application No  
PCT/US 03/28527

A. CLASSIFICATION OF SUBJECT MATTER  
IPC 7 A61K31/4422 A61P9/12

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K A61P

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, CHEM ABS Data, BIOSIS, EMBASE, WPI Data, PAJ

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages   | Relevant to claim No. |
|------------|--|-----------------------|
| P,X        | WO 03/062201 A (VITTAL MALLYA SCIENTIFIC RESEARCH FOUNDATION, INDIA)<br>31 July 2003 (2003-07-31)<br>the whole document<br>page 48, line 22  | 1-5,7,8               |
| X          | KUMAR P P ET AL: "Synthesis and evaluation of a new class of Nifedipine analogs with T-type calcium channel blocking activity"<br>MOLECULAR PHARMACOLOGY, BALTIMORE, MD, US, vol. 61, no. 3, March 2002 (2002-03), pages 649-658, XP002237191<br>ISSN: 0026-895X<br>the whole document | 1-5,7,8               |

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

## \* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

22 January 2004

Date of mailing of the international search report

31.06.2004

Name and mailing address of the ISA

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# INTERNATIONAL SEARCH REPORT

International Application No  
PCT/US 03/28527

## C. (Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages   | Relevant to claim No. |
|------------|--|-----------------------|
| X          | <p>KOBRIN, I. ET AL.: "Safety of Mibefradil, a New Once-a-Day, Selective T-Type Calcium Channel Antagonist"</p> <p>AMERICAN JOURNAL OF CARDIOLOGY,<br/>vol. 80, no. 4B, 1997, pages 40c-46c,<br/>XP002267729<br/>usa<br/>the whole document</p> <p>-----</p> | 1-5,7,8               |

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 03/28527

| Patent document<br>cited in search report |   | Publication<br>date | Patent family<br>member(s) | Publication<br>date |
|---|---|---------------------|----------------------------|---------------------|
| WO 0362201                                | A | 31-07-2003          | WO 03062201 A1             | 31-07-2003          |
|   |   |                     | US 2003140058 A1           | 24-07-2003          |
|   |   |                     | US 2004006110 A1           | 08-01-2004          |
| -----                                     |   |                     |                            |                     |